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No. 81-1843

IN THE

Supreme Court of the United States

OCTOBER TERM, 1982

THE STATE OF ILLINOIS,

Petitioner,

vs.

JOHN ANDREAS,

Respondent.

On Writ Of Certiorari To The Appellate Court
Of Illinois, First Judicial District

BRIEF FOR RESPONDENT

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PETITION FOR WRIT OF CERTIORARI FILED APRIL 3, 1982
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QUESTION PRESENTED

The warrantless opening by police of John Andreas' sealed container, and the warrantless cracking open of the solid wood table top within, were violations of his Fourth Amendment rights and rendered the contents inadmissible at trial, where the police had seized the sealed container, taken it to a protected location, and there were no exigent circumstances.

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BRIEF FOR RESPONDENT

STATEMENT OF THE CASE

On February 22, 1979, police officers seized a closed, sealed container from John Andreas. (R. 17) John Andreas was arrested in the building hallway outside the door of his apartment. (R. 17) The container was seized at that same location at that time. (R. 17) The container was taken in its closed, sealed condition to police headquarters. It was later opened by police outside the presence of John Andreas. (R. 36) The container had two

locks affixed to hinges. (R. 42) It was not possible to see into the container when it was closed. (R. 35) The police had no warrant for the search of the container. (R. 36)

Evidence was introduced that customs agents had searched a container on February 21, 1979, at O'Hare Airport. (R. 41-42) Contraband was discovered in that package. (R. 43) Police agents Labek and Lipsek delivered a sealed container of the same description to the apartment of John Andreas on February 22, 1979. Neither officer had been present when that package had been sealed at the airport. They left the container with John Andreas in the hallway in front of his apartment door. (R. 16) Officer Labek saw John Andreas pull the container into his apartment. They then left the vicinity of the hallway. (R. 22) John Andreas was arrested in that hallway some 30 to 45 minutes later. (R. 16-17) It was at that time that the seizure of the container occurred. The apartment was not under surveillance during the 30 to 45 minute period. (R. 22, 38) It was after this seizure that the container was transported to the police station and eventually opened. Contraband was allegedly discovered. (R. 37)

Contrary to representations in the petitioner's statement of the case, there is no evidence that Inspector Drozek arranged for a "controlled delivery" with the agents of the DEA or anyone else. (Pet. Brief p. 3) (R. 40-44) Furthermore the Illinois Appellate Court specifically found that no "controlled delivery" had taken place.

Contrary to representations in the petitioner's brief, the Illinois Appellate Court did not reject the reasoning and holding of the Seventh and Tenth Circuit Courts of Appeal. (Pet. Brief p. 5) The Illinois Court correctly ruled that the holdings were inapplicable to the factual circumstances of this case.

Contrary to representations in the petitioner's brief, the Illinois Appellate Court did not rule that a warrant was needed to retake the package in this case. (Pet. Brief p. 8) The Illinois Court correctly ruled that after the warrantless taking a warrant was required to open and search the container.

Contrary to representations in the petitioner's brief, no evidence was introduced to show that the respondent ". . . packaged the contraband inside a table top . . ." (Pet. Brief p. 13)

Contrary to representations in the petitioner's brief, no evidence was introduced to show that the respondent was leaving his apartment "to start distribution." (Pet. Brief p. 27)

Contrary to representations in the petitioner's brief, no evidence was introduced as to the "street value" of any contraband. (Pet. Brief pp. 7, 28)

Contrary to representations in the petitioner's brief, there is no evidence that the container was taken by Agent Labek "at the first opportunity." (Pet. Brief p. 23) Such testimony would have been impossible in the light of his unequivocal testimony that he did not have the apartment under his surveillance. (R. 22)

SUMMARY OF ARGUMENT

Respondent submits that the factual circumstances surrounding the seizure of the container at the time of the arrest of John Andreas and the subsequent warrantless search are indistinguishable from the facts in *United States v. Chadwick*, 433 U.S. 1 (1977), and *Arkansas v. Sanders*, 442 U.S. 753 (1979). The container was searched while under full dominion and control of law enforcement officials in the absence of exigent circumstances. A warrant was required; none was obtained.

The reliance by the petitioner upon the reasoning of some Courts of Appeals in "controlled delivery" cases is misplaced, since the factual circumstances surrounding the delivery here show a loss of control. There was no evidence to show the continuity of seizure required by every single case cited by the petitioner. There was no continuity between Customs Inspector Drozek and the agents making the delivery. There was a break in the control after the delivery. For these reasons, the respondent submits that the question of whether there should be an exception to the warrant requirement in cases involving a "controlled delivery" after a prior lawful search need not be decided by this Court on these facts.

ARGUMENT I

THE WARRANTLESS OPENING BY POLICE OF JOHN ANDREAS' SEALED CONTAINER, AND THE WARRANTLESS CRACKING OPEN OF THE SOLID WOOD TABLE TOP WITHIN, WERE VIOLATIONS OF HIS FOURTH AMENDMENT RIGHTS AND RENDERED THE CONTENTS INADMISSIBLE AT TRIAL, WHERE THE POLICE HAD SEIZED THE SEALED CONTAINER, TAKEN IT TO A PROTECTED LOCATION, AND THERE WERE NO EXIGENT CIRCUMSTANCES.

The Fourth Amendment of the Constitution of the United States dictates that in the absence of exigent circumstances a search warrant is required before law enforcement authorities may open a sealed container which they have lawfully seized at the time of the arrest of its owners, even where there is probable cause to believe the container contains contraband. *United States v. Chadwick*, 433 U.S. 1 (1977). This rule applies generally to containers, footlockers, suitcases and other luggage of general description. The failure of a person to lock such a container will not alter its fundamental character as a repository for personal, private effects. *Arkansas v. Sanders*, 442 U.S. 753 (1979).

The present case falls squarely in the center of these general principles of Fourth Amendment law. The container was seized at the time and place of the arrest of John Andreas, similar to the seizures in both *Chadwick* and *Sanders*. Like the footlocker in *Chadwick*, the container seized from John Andreas was a closed, opaque shipping container. (R. 34, 35) Just as in *Chadwick* and in *Sanders*, the container was seized by law enforcement agents at the time and place of the arrest of the defendant. (R. 34, 35) Law enforcement officials transported the closed container to Chicago Police Headquarters. They

opened it within the police station outside the presence of John Andreas. (R. 39) They then cracked open a solid wood table top within the container and allegedly obtained contraband. (R. 37, 39) No consent was given. No warrant was ever obtained. (R. 36)

The securing of the container at the Chicago Police Headquarters was similar to the securing of the footlocker in *Chadwick*. Here the package was ". . . safely immobilized" and therefore "it was unreasonable to undertake the additional and greater intrusion of a search without a warrant." *Chadwick* at 13. There were no exigent circumstances at the Chicago Police Headquarters so as to remove the requirement of a search warrant.

> . . . The Warrant Clause places the line at the point where the property to be searched comes under the exclusive dominion of police authority . . . *Chadwick* at 15.

It is hard to imagine how the container could have been more "under the exclusive dominion of police authority" than at the Chicago Police Headquarters. Both *Chadwick* and *Sanders* require a warrant for the search at the Chicago police station.

Despite this "exclusive dominion" the petitioner has argued that the warrant requirement should be excused because the police acted reasonably. (Pet. Brief pp. 28-29) But the warrant requirement cannot be excused on that basis.

> "The mere reasonableness of a search assessed in the light of the surrounding circumstances, is not a substitute for the judicial warrant required under the Fourth Amendment." *Sanders* at 758.

The petitioner argues that these cases should not apply because there was not a legitimate expectation of privacy

in the package. (Pet. Brief pp. 8, 28 et passim) The case that petitioner cites for this proposition states otherwise. *Katz v. United States*, 389 U.S. 347. "The Fourth Amendment protects people, not places." *Katz* at 351. The rationale of *Katz* was precisely that the defendant had a right to privacy in a telephone booth that did not revolve around property interests. It is the petitioner's misunderstanding of the Fourth Amendment which apparently prompts the citations of *Rakas v. Illinois*, 439 U.S. 128 (1978) and *Rawlings v. Kentucky*, 448 U.S. 98 (1980), both dealing with issues of "standing." The factual circumstances demonstrate that the Fourth Amendment standing of the defendant in this case was no different than the standing of the parties in *Chadwick* and *Sanders*.

The petitioner's attempt to place the burden of an exception to the Fourth Amendment on the package, instead of on the respondent's right, causes the State to develop an elaborate theory of "extended border search" that is not supported by the "controlled delivery" cases cited in petitioner's brief. Petitioner argues that the legitimate expectation of privacy did not exist because the container travelled in an international shipment. For the limited purpose of the original motion, the respondent did not question the legitimacy of the February 21 customs search. But the container seized from John Andreas was not seized at the border or its functional equivalent. He was lawfully within the country and was entitled to the protections afforded by the Fourth Amendment. *Almeida-Sanchez v. United States*, 413 U.S. 266 (1973).

To support this "extended border search" theory the petitioner has cited the case of *United States v. Ramsey*, 431 U.S. 606 (1977). Once again the facts of this case do not demonstrate rule advocated. Rather in *Ramsey*, after the initial opening of international mail by a customs agent he closed the envelopes and sent them in a locked

pouch to Washington "where agents of the Drug Enforcement Administration, *after obtaining a search warrant*, opened the envelopes again and removed most of the heroin." *Ramsey* at 610. (Emphasis added)

The petitioner has advanced the argument that no warrant was required because of a "controlled delivery". This "controlled delivery" argument is discussed in detail in the following sections of this brief. But petitioner's contention fails to take into account the factual circumstances of the delivery in this case. The Illinois Appellate Court best summarized those facts:

> Instead of retaining dominion and control of the package, as in the "controlled delivery" cases, the authorities here relinquished such control. . . . The retrieval of the container in the defendant's hallway must be deemed to have constituted a new seizure distinct from the original seizure on February 21. *People v. Andreas*, 426 N.E.2d at 757-758.

The new seizure by law enforcement officers was indistinguishable from the seizures in *Chadwick* and in *Sanders*. The same warrant requirement existed:

> "Where,—as in the present case—the police, without endangering themselves or risking loss of the evidence, lawfully have detained one suspected of criminal activity and secured his suitcase, they should delay the search thereof until after judicial approval has been obtained. In this way, constitutional rights of suspects to prior judicial review of searches will be fully protected." *Sanders* at 766.

The exceptions to the warrant requirement are few and are jealously and carefully drawn. *Sanders* at 759. The petitioner has failed to demonstrate any exception in the present case. The Illinois Appellate Court properly suppressed the results of the search at the Chicago Police Headquarters.

ARGUMENT II

THE ILLINOIS APPELLATE COURT CORRECTLY REJECTED THE ARGUMENT THAT THIS CASE INVOLVED A "CONTROLLED DELIVERY."

The petitioners advanced as a general proposition of law that a "controlled delivery" after a previous lawful search will provide an excuse to disregard the warrant requirement. It should be noted that the Illinois Appellate Court did not dispute this proposition of law. The Court simply found that the facts in this case did not support the application of the proposed exception, since there was no controlled delivery.

Respondent is aware of no case in which this Court has directly addressed the question of whether a warrant is required after a lawful customs search and subsequent delivery under controlled conditions with constant surveillance. See *California v. Riegler*, Application for Stay granted, 449 U.S. at 1322 (1981). Since this "controlled delivery" reasoning underlies the argument of the petitioners, the respondent will discuss it here. However the respondent in no way concedes that the facts in this case correspond to the concept of "controlled delivery" found in the several cited opinions of the Courts of Appeals.

The concept of "controlled delivery" evolved in some Courts of Appeal involves a continuous seizure of the contents of a container from the time of the first lawful search to the time of the second search. Courts of Appeals have considered situations where a warrantless search of a container has been followed by a delivery under controlled conditions and close surveillance. Petitioner has cited the case of *United States v. DeBerry*, 487 F. 2d 448 (2nd Cir. 1973). In that case an Emery Air Freight em-

ployee performed the initial search of a container in transit to DeBerry. The results of this private search were made known to police, who seized the contraband in plain view. The police officer at the initial seizure marked each brick of marijuana before repacking and closing the suitcase. He placed his initials on the outside. He then transmitted to receiving agents a detailed description of the suitcase and its contents. Defendants were later allowed to pick up the suitcase and walk to their car. They were under close and constant surveillance until their arrest at the car.

Petitioner has chosen to analyze *DeBerry* on the basis of the lack of reasonable expectation of privacy in the package by the recipient. Nowhere in the opinion did the Second Circuit discuss DeBerry's expectation of privacy. Rather, the Court of Appeals looked to a continuity of the original seizure of the contents of the package, based upon plain view principles, through the moment of the later search. The opinion recites a detailed description of the constant surveillance and control of the container by law enforcement officials. The opinion notes that the transfer of the package from one group of police to another was accompanied by detailed information to insure the integrity and continuity of the seizure of the contents.

It is the continuity of seizure from the initially lawful seizure which has prompted the various Circuits to sanction later warrantless searches. If the police lose control of the container at any point, they must effect a new seizure. *United States v. Edwards*, 602 F. 2d 458 (1st Cir. 1979). If control over the package is relinquished so that a new seizure must take place in order to accomplish a new search, then that continuity of seizure with the initial search and seizure is broken. Of course any new

and separate search would require a warrant. *United States v. Chadwick*, 433 U.S. 1 (1977); *Arkansas v. Sanders*, 422 U.S. 753 (1979). For this reason one notes in each opinion cited by the petitioner a close review of the factual circumstances to assure the unbroken continuity of the seizure.

In *United States v. Ford*, 525 F. 2d 1308 (10th Cir. 1975), the 10th Circuit found the factual circumstances indistinguishable from *DeBerry*, in that the defendant's package was seized at the airport where she attempted to retrieve it. Once again, the package had previously been marked by police.

> "This official dominion continued *unbroken* because close surveillance followed the seized contraband, insuring that it remained within official possession." *United States v. Ford*, 525 F. 2d at 1313. (Emphasis added)

Both *United States v. Bulgier*, 618 F. 2d 472 (7th Cir. 1980) and *United States v. Andrews*, 618 F. 2d 646 (10th Cir. 1980), involve similar factual situations where the defendants picked up the package at an airport under police surveillance and were arrested as they walked away. Both courts quoted verbatim the above sentence from *Ford* as their rationale.

In *United States v. Modica*, 663 F. 2d 1173 (2nd Cir. 1981), the 2nd Circuit noted the extensive surveillance of the defendant from the moment he picked up the suitcase until he drove up to his home where the suitcase was retrieved from the car trunk.

In *United States v. Richards*, 638 F. 2d 765 (5th Cir. 1981), the 5th Circuit reviewed the surveillance in detail and specifically noted that the defendant had no opportunity to leave the scene with the parcel from the moment he had picked it up. Each of the other "controlled de-

livery" cases cited by the petitioner involves this same examination for strict continuity of seizure.*

The case of *United States v. Edwards*, 602 F. 2d 458 (1st Cir. 1979), cited by the government (Amicus Brief, page 7, Footnote 4) provides additional insight into the correct rationale for the lower court's opinions. The basic facts read familiarly. A search of a container by an airport employee revealed heroin. Police were called and seized the opened container and contents in plain view. Defendant Richards picked up the package from Boston airport under surveillance. Agents followed him to defendant Edwards' house. Agents watched Richards and Edwards carry the package into the house. Shortly thereafter agents entered the house to arrest the defendants. They then secured the house and waited for warrant before searching the house and seizing the package. In the course of ruling on other issues the 1st Circuit distinguished these factual circumstances from the "controlled delivery" opinions.

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* The government has cited several additional cases of various circuits. (Amicus Brief, page 7, Footnote 4). It is interesting to note that three of these cases involve the use of electronic beepers actually placed inside the containers during the initial search and seizure. These devices were designed not only to emit a constant tracer signal, but to signal the instant the containers were opened. In each case the government retrieved the container after the latter signal sounded. So the container had already been re-opened by the defendant. *United States v. Sheikh*, 654 F. 2d 1057 (5th Cir. 1981); *United States v. McGreevy*, 652 F. 2d 849 (9th Cir. 1981); *United States v. Hackett*, 638 F. 2d 1179 (9th Cir. 1980). Also cited was *United States v. Barone*, 584 F. 2d 118 (6th Cir. 1978), though it involved no issue as to the seizure or search of the delivered object. In *McGreevy*, *Hackett*, and *Barone* the agents secured the scenes and waited for warrants before making further searches, apparently suffering no hardship thereby in their duty to apprehend wrongdoers.

The opinion specifically distinguished the facts from *DeBerry* and *Ford* noting that the package was in Richards' possession for an hour during which he was beyond the immediate physical reach or control of government agents who followed him to Edwards' home. The Court reasoned that the government could not have exercised "dominion and control" over the package during that time and that, therefore, their retrieval of the package at Edwards' home constituted a new seizure for Fourth Amendment purposes.

A. There Was No "Controlled Delivery" In This Case Following The Customs Search Of The Previous Day.

Whether the Court chooses to accept or reject the reasoning of the Courts of Appeals concerning controlled deliveries after lawful searches, it is clear that such reasoning is inapplicable to the present case. There was no continuity of seizure from the first search by customs officers to the second search in the Chicago police station. No evidence of continuity of seizure of the contents of the package was shown between the February 21 opening and the time Labek picked up the already sealed package on February 22. (R. 27; J.A. 12) It is not sufficient to demonstrate that the metal container was similar to, or the same as, the one Labek had seen open on the previous day. It is the seizure of the contents of the package, not just the metal box, which is crucial. The Illinois Appellate Court found that at most Labek may have had probable cause to suspect what was in the container he picked up on February 22.

Petitioner has complained that a law enforcement officer should not be required to be in actual physical possession of the article in question. This complaint misses the point of the reasoning in the cases petitioner relied upon. The question is not necessarily whether

Labek was personally present during the repackaging. The cases cited by the petitioner show that the question is whether continuity of the seizure of the contents of the container has been demonstrated by Labek's testimony. For example, there is no testimony that Labek was informed by the customs agent Drozek on February 22 of the current contents of the sealed container. (R. 40-44) There is none of the detailed information shared by other agents as in *DeBerry*. There were no markings on the container or other information showing Labek whether the container was now holding the contraband he had previously seen. The continuity of seizure of the contents of the container has not been shown.

An even more significant break in the continuity of seizure occurred after the container was delivered. The container was completely out of the control or surveillance of the police for between a half hour and forty-five minutes. One must simply disregard and dismiss the evidence to declare that Agent Labek "maintained surveillance" of the container, much less its contents. Officer Labek testified in detail about this period of time:

Q. During the half hour to 45 minutes that you stayed in the hall, was Officer Lipsek with you that entire time?

A. I was not in the hallway for the entire 30 to 45 minutes.

Q. Where were you during that 30 to 45 minutes?

A. Do you want me to answer your first question first or answer your second question?

Q. Second question first. Where were you during that 30 to 45 minutes?

A. Part of the time I was in the hall and the rest of the time I was in the building.

Q. Were you on the same floor as the Andreas apartment when you were in the building?

A. No, sir.

Q. So that you did not have the Andreas apartment under personal surveillance during that 30 to 45 minutes yourself?

A. That's correct.

Q. Do you know what happened to Officer Lipsek after you delivered the package?

A. I know now, but I didn't know at the time.

Q. What if anything did Officer Lipsek do during that period of time?

A. He exited the building. (R. 22-23; J.A. 9)

Labek did not maintain surveillance of the Andreas apartment. Even if he had remained in the hallway on the same floor as the apartment, he could have maintained surveillance of nothing more than a closed door. That "surveillance" is clearly insufficient to establish continuity of seizure.

Petitioner relies upon *United States v. Edwards*, 415 U.S. 800 (1974), for the proposition that custody can be maintained without constant possession or surveillance. The factual circumstances as well as the legal principles involved in the searching of Edwards hours after a lawful custodial arrest seem inapplicable here in any context. Surely no evidence has suggested that John Andreas was under arrest during the half hour to 45 minutes in his apartment. In a splendid rewriting of the evidence, petitioner tells us that "After respondent took possession of the items Agent Labek stood watch so that respondent could not leave the building with them." (Pet. Brief p. 23) No testimony supports this claim. But even if it did, it hardly indicates the custody urged by the petitioner. Certainly Agent Lipsek did not consider John Andreas in custody as he travelled to obtain a warrant. Petitioner seeks to expand the Court's rule in *Edwards*

far beyond its context. This attempt is particularly inappropriate where a closed container is involved.

The argument that the container seized in the hall was the same as the container searched the previous day is misleading and irrelevant. It is not the "sameness" of the container which is significant, but the continuity of the surveillance of the container. Furthermore it is not only the continuity of surveillance of the container, but the continuity of surveillance of its contents that is at issue. Neither continuity exists in this case. The Illinois Appellate Court correctly ruled that such continuity had not been shown. Therefore the prosecution improperly relied upon an earlier customs search to justify the later warrantless opening of the container.

The second search in the instant case was an unauthorized invasion of a constitutionally protected interest in privacy. It was a search; there was no warrant; the owner had not consented; and there were no exigent circumstances. The results of the warrantless search were properly suppressed.

B. The Facts Of This Case Demonstrate No Need For A "Controlled Delivery" Exception To The Warrant Requirement.

Petitioner argues that the holding of the Illinois Appellate Court "penalizes law enforcement officers who attempt to apprehend others involved in the criminal enterprise." (Pet. Brief p. 28) We have already noted that the holding of the Illinois Appellate Court was limited to the applicability of the "controlled delivery" concept to the factual circumstances of this case. In ruling on this factual question, the Illinois Court made no statement as to the validity of the rule of law. Nevertheless, the only burden imposed by the holding is the same burden discussed by this Court in *Chadwick*. Law enforcement

agents are required to obtain a search warrant for a search. Contrary to the State's contention, this holding does not suggest that law enforcement officers must retake the package at the moment of delivery. (Pet. Brief p. 28) It merely reiterates the Fourth Amendment warrant requirement for the search of the seized container after it has been reduced to police control, regardless of when the seizure occurs.

The government has advanced a similar contention in its amicus brief arguing that "requiring a warrant in such a case would impose a needless burden on law enforcement operations and would weaken the protections of the warrant procedure by trivializing it." (Amicus Brief, page 11). This Court has stated repeatedly that it will not dispense with the fundamental Fourth Amendment protections simply because of a generalized urgency of law enforcement. See e.g., *Torres v. Puerto Rico*, 442 U.S. 465 (1979).

The warrant requirement "is not an inconvenience to be somehow 'weighed' against the claims of police efficiency." *Coolidge v. New Hampshire*, 403 U.S. 443, 481 (1971). The Court has been careful to create few exceptions to the warrant requirement. "Police efficiency" or police reasonable belief have never been found to be sufficient grounds for excusing a warrant. *Coolidge, Chadwick, Sanders.*

> "The exceptions have been limited to situations . . . where it was concluded that the public interest required some flexibility in the application of the general rule that a valid warrant is a prerequirement for a search." *Sanders* at 759.

Here there is absolutely no "public interest" calling for such flexibility since the package was totally secured at the police headquarters and no emergency existed other than police eagerness and curiosity that required the

package to be opened without a warrant. The petitioners have not stated any hardship or detriment to the law enforcement officials other than the additional time and effort involved in submitting the information gained from their work to the impartial analysis of a judicial officer.

In each "controlled delivery" situation discussed by the Courts of Appeals, the container to be searched has been reduced to the control of law enforcement agents exactly as described in *Chadwick*. Neither in *Chadwick* nor in such "controlled delivery" settings is a warrant required for the seizure of the container. It is only the subsequent search of the seized container that is at issue here. By definition, the container is under control at the time of the desired second search. In the absence of exigent circumstances no greater burden is upon law enforcement than shown in *Chadwick*. Nothing is lost. Arrests or seizures can be made based upon probable cause. No evidence will be lost. The subsequent application for a warrant will subject the police agent's work to judicial scrutiny before valuable rights may be invaded.

If the warrant is excused in a "controlled delivery" setting, then the inescapable result is that the policeman will be the judge of whether he has in fact complied with some judicially drawn requirements of "controlled delivery". The policeman will be judging legal issues at the peril of good law enforcement as well as at the peril of the rights under the Fourth Amendment. On the other hand, if there truly is probable cause, or indeed such tight control as to give certainty, then law enforcement will not be penalized since the warrant will certainly be forthcoming.

The preceding argument demonstrates that the factual circumstances of this case do not even show that a "con-

trolled delivery" occurred. Under these facts the respondent submits that it is not necessary for this Court to rule upon the more general question of whether a warrant is required after a lawful customs search and subsequent delivery under controlled conditions with constant surveillance. Nevertheless, the petitioners have shown no compelling need for such an exception to the general warrant requirement. Certainly the facts of this case demonstrate that no loss to law enforcement would have been suffered by compliance with the warrant requirement. Both law enforcement and the protection of Fourth Amendment rights will benefit by requiring a search warrant for the opening of containers seized as a result of a "controlled delivery".

This Court has considered arguments for exceptions to the warrant requirement in the past and formulated a clear and sound rule of law which was followed by the Illinois Appellate Court.

> "No less than one who locks the doors of his home against intruders, one who safeguards his personal possessions in this manner is due the protection of the Fourth Amendment Warrant Clause. There being no exigency, it was unreasonable for the Government to conduct this search without the safeguards a judicial warrant provides." *Chadwick* at 548.

The facts in the instant case demonstrate no need to change this doctrine.

CONCLUSION

The judgment of the Illinois Appellate Court affirming the trial court's ruling should be affirmed.

Respectfully submitted,

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